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GAUTHIER, GERALD

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8

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/911,078	VUORI, PETRI	
	<b>Examiner</b> Gerald Gauthier	<b>Art Unit</b> 2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.  
**Disposition of Claims**  
 4) Claim(s) 1-40 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-40 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.<br> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.<br> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-14, 28-31 and 39** are rejected under 35 U.S.C. 102(e) as being anticipated by Hanson (US 6,215,859).

Regarding **claim 1**, Hanson discloses a delivery of urgent messages by integrated forced delivery (column 1, lines 7-10), (which reads on claimed “a method for use in a telecommunications network for providing messages between users”), comprising the steps of:

receiving a completed voice message (column 2, line 43 “leave a message”) from a first terminal (column 2, line 37 “a calling party”) for forwarding to a second user (column 2, line 38 “the called party”) at a second terminal (column 2, line 38 “the called party”), the completed voice message already spoken to a conclusion (column 2, line 43 “the calling party records a message”) by a first user (column 2, line 43 “calling party”) at the first terminal prior to the transmission from the first terminal (column 2, lines 37-53)

[The calling party calls to leave an urgent message for the called party in the voicemail system]; and

immediately sending the completed voice message to the second terminal (column 2, lines 54-67) [The urgent delivery of the voice mail system queues the message for immediate delivery to the called party].

Regarding **claims 2 and 9**, Hanson discloses further comprising a step of checking availability of the second terminal or the second user using a presence service and immediately sending the completed voice message only if available (column 2, lines 54-60).

Regarding **claims 3 and 10**, Hanson discloses the step of notifying the second user at the second terminal of the completed voice message prior to the step of immediately sending (column 2, lines 54-60).

Regarding **claims 4 and 11**, Hanson discloses wherein the step of immediately sending the received voice message to the second terminal is carried out only after the second user signals acceptance (column 2, lines 54-67).

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Regarding **claims 5 and 12**, Hanson discloses receiving a voice message from the second terminal spoken by the second user (column 3, lines 3-10); and

immediately sending the received voice message to the first terminal (column 2, lines 10-23).

Regarding **claims 6 and 13**, Hanson discloses the step of checking the availability of the first terminal before carrying out the step of immediately sending the voice message completed at the second terminal to the first terminal (column 3, lines 36-54).

Regarding **claims 7 and 14**, Hanson discloses the step of storing the received voice message in the second terminal for playback by the second user at the convenience of the second user (column 3, lines 24-35).

Regarding **claim 8**, Hanson discloses a delivery of urgent messages by integrated forced delivery (column 1, lines 7-10), (which reads on claimed "an apparatus for use in a telecommunications network for providing messages between users"), comprising:

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means for receiving a voice message (column 2, line 43 "leave a message") from a first terminal spoken (column 2, line 43 "calling party") by a first user (column 2, line 43 "calling party") for a second user (column 2, line 41 "called party") at a second terminal (column 2, lines 40-44) [The calling party leave a message for the called party in the voicemail system];

means for checking availability (column 2, line 41 "line is busy") of the second terminal or second user using a presence service (column 2, lines 40-44) [If the called party line is busy the voicemail system answers the call. The examiner chose the availability of the second terminal since the limitation is a selective or]; and

means for immediately sending the received voice message to the second terminal if available (column 2, lines 54-67) [The urgent delivery of the voice mail system queues the message for immediate delivery to the called party].

Regarding **claims 28 and 30**, Hanson discloses wherein the checking availability is a checking of a status marker of a presence tuple among a plurality of presence tuples of presence information maintained by a presence service (column 4, lines 15-29).

Regarding **claims 29 and 31**, Hanson discloses wherein the immediately sending the received voice message is carried out by a service sending the received voice message to an inbox having an inbox address associated with the presence tuple (column 4, lines 15-29).

Regarding **claim 39**, Hanson discloses an SVM presence user agent for interacting with the SVM presentity (column 5, lines 6-26); and an SVM inbox user agent for interacting with an SVM inbox (column 5, lines 6-26).

3. **Claims 23-27, 34-36 and 38** are rejected under 35 U.S.C. 102(e) as being anticipated by Baker et al. (US 6,507,735).

Regarding **claim 23**, Baker discloses an automated short message attendant (column 1, lines 7-11), (which reads on claimed "a user equipment for use in a voice message system"), comprising:

means (23 on FIG. 1) for receiving a short voice message spoken (column 3, line 15 "a spoken message") by a first user (column 3, lines 7-17) [The service node provides calling party to leave a short message delivered];

means (27 on FIG. 1) for storing SVMs including the SVM spoken by the first user (column 3, lines 17-19) [The short message service stores the messages for wireless subscriber];

means (column 3, line 26 "call processing") for receiving a designation signal (column 3, line 27 "a call") from the first user designating a second user (column 3, line 27 "a subscriber") as an intended recipient (column 3, lines 25-29) [The call processing receives call for a subscriber];

means (column 4, lines 27-28 "voicemail system") for retrieving the stored SVM in response to the designation signal for providing the SVM retrieved from storage and the designation signal (column 4, lines 26-33) [The subscriber gets the message as soon as the unit is available]; and

means (column 4, line 34 "the system") for sending the SVM retrieved from storage and the designation signal to the second user of the voice message system as an outgoing SVM (column 4, lines 34-43) [The system tracks the subscriber to send the short message to the subscriber].

Regarding **claim 24**, Baker discloses means for receiving an incoming SVM from the second user for storage in the means for storing SVMs (column 2, lines 62-65); and means for playback of the incoming SVM to the first user after retrieval from the means for storing SVMs by the means for retrieving stored SVMs (column 3, lines 2-6).

Regarding **claim 25**, Baker discloses means for receiving notification of the incoming SVM from the second user for display or notification thereof by the user equipment (column 3, lines 7-17); and

means responsive to an acceptance indication input signal from the first user for sending the acceptance indication input signal for use in the voice message system in deciding whether to send the incoming SVM from the second user to the user equipment of the first user (column 3, lines 14-19).

Regarding **claim 26**, Baker discloses wherein the means for receiving the SVM spoken by the first user is voice recognition means for providing the SVM as a text message for storage in and retrieval from the means for storing SVMs as a text message for transmission as an outgoing text SVM via a short message service (SMS) center (column 3, lines 7-19).

Regarding **claim 27**, Baker discloses wherein the means for receiving an incoming SVM from the second user is means for receiving an incoming text SVM for storage in the means for storing SVMs as a text message and wherein the means for playback of the incoming text SVM is for displaying the incoming text message on a display of the user equipment (column 3, lines 7-24).

Regarding **claim 34**, Baker discloses wherein the means for sending comprises an SVM sender user agent (column 3, lines 7-24).

Regarding **claim 35**, Baker discloses wherein the means for receiving an incoming SVM is an SVM inbox user agent (column 4, lines 34-43).

Regarding **claim 36**, Baker discloses an automated short message attendant (column 1, lines 7-11), (which reads on claimed “an instant messaging service”), comprising:

a presence service (column 4, line 18 “by tracking the status”), responsive to presence information, for providing status information (column 4, lines 13-33) [The system tracks the status of the subscriber’s mobile unit for his presence on the network]; and

a short voice message service (15 on FIG. 1), responsive to an SVM (column 3, line 15 "a spoken message") provided by an SVM sending principal (23 on FIG. 1), for providing the SVM to a receiving principal (column 3, line 18 "wireless subscriber") if the status information indicates availability for acceptance of the SVM (column 3, lines 7-24) [The service node sends the spoken message of the calling party as a short message to the subscriber when the mobile unit is available].

Regarding **claim 38**, Baker discloses an automated short message attendant (column 1, lines 7-11), (which reads on claimed "terminal for accessing an instant messaging service for receiving instant messages from senders of instant messages and for providing instant messages to inboxes"), the service associated with a presence service for receiving presence information about presentities and for providing the presence information to watchers (column 4, lines 13-33), the terminal comprising:

a short voice message watcher user agent (27 on FIG. 1) for receiving presence information about an SVM presentity (column 3, lines 17-24) [The service node sends the spoken message of the calling party as a short message to the subscriber when the wireless service center receive the signal of the availability of the mobile unit]; and.

an SVM sender user agent (23 on FIG. 1) for providing an SVM (column 3, line 15 "a spoken message") to an SVM server (15 on FIG. 1) for delivery if the presence information indicates availability (column 3, lines 7-24) [The service node sends the

spoken message of the calling party as a short message to the subscriber when the mobile unit is available].

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 15-22 and 32-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Baker.

Regarding **claim 15**, Hanson discloses a delivery of urgent messages by integrated forced delivery (column 1, lines 7-10), (which reads on claimed "a voice message system including a plurality of terminals and a voice message service center"), the service center comprising:

means for receiving a voice message (column 2, line 43 "leave a message") from a first user terminal (column 2, lines 40-44) [The calling party leave a message for the called party in the voicemail system at the calling side];

means for storing the received voice message from the first terminal (column 4, lines 30-36) [The message leave by the calling party is sent to the called party's mailbox];

means (column 4, line 56 "voice-messaging system") for sending the stored received message from the first terminal to the second terminal if the second terminal is available (column 4, lines 56-64) [The system delivers the urgent message to all the recipients].

Hanson fails to disclose a presence service for checking availability of an intended second user.

However, Baker teaches a presence service (column 4, line 18 "by tracking the status") for checking availability of an intended second user (column 4, line 18 "the subscriber's mobile unit") at a second terminal (column 4, lines 13-33) [The system tracks the status of the subscriber's mobile unit for his presence on the network].

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use the tracking system to determine the status of the subscriber's mobile unit of Baker in determining the availability of the called party in the system of Hanson.

The modification of the invention would offer the capability of tracking system to determine the status of the subscriber's mobile unit such as the automated short message would transmit the spoken message to the wireless unit.

Regarding **claim 16**, Hanson discloses means for notifying the second terminal of the voice message received from the first terminal wherein the received voice message from the first terminal is sent to the second terminal upon receiving an acceptance signal from the second terminal in response of the notification (column 2, lines 54-67).

Regarding **claim 17**, Hanson discloses means for receiving the voice message at the first user terminal spoken by a first user for providing the voice message from the first user terminal to the means for receiving the voice message at the service center (column 4, lines 30-36);

means for storing voice messages including the voice message spoken by the first user (column 4, lines 35-40);

means for receiving a designation signal from the first user designating a second user as an intended recipient (column 4, lines 40-45);

means for retrieving the stored voice message in response to the designation signal for providing the voice message retrieved from storage and the designation signal (column 4, lines 56-64); and

means for sending the voice message retrieved from storage and the designation signal to the second user of the voice message system as an outgoing voice message (column 4, lines 56-64).

Regarding **claim 18**, Hanson discloses means for receiving an incoming voice message from the second user for storage in the means for storing received voice messages (column 4, lines 30-36); and

means for playback of the incoming voice message to the first user after retrieval from the means for storing voice messages by the means for retrieving stored voice messages (column 4, lines 40-45).

Regarding **claim 19**, Hanson discloses means for receiving notification of the incoming voice message from the second user for display or notification thereof to the first user (column 4, lines 45-55); and

means responsive to an acceptance indication input signal from the first user for sending the acceptance indication input signal for use in the voice message system in deciding whether to send the incoming voice message from the second user to the first user (column 4, lines 56-64).

Regarding **claim 20**, Baker teaches wherein the means for receiving the voice message spoken by the first user includes voice recognition means for recognizing the voice message spoken by the first user for providing the voice message as a text message for storage in and retrieval from the means for storing voice messages as a

text message for transmission as an outgoing text voice message via a short message service center (column 3, lines 7-19).

Regarding **claim 21**, Baker teaches wherein the means for receiving an incoming voice message from the second user may include means for receiving an incoming text voice message for storage in the means for storing voice messages as a text message and wherein the means for playback of the incoming text voice message is for displaying the incoming text message on a display of the user equipment (column 3, lines 7-19).

Regarding **claim 22**, Baker teaches wherein the means for receiving an incoming voice message from the second user is means for receiving an incoming text voice message for storage in the means for storing voice messages as a text message and wherein the means for retrieving the stored voice message is also for converting the retrieved voice message to a voice signal for playback on a means for playback as an enunciated voice message (column 3, lines 7-24).

Regarding **claim 32**, Hanson discloses wherein the means for checking availability is carried out by a presence service checking a status marker of a presence

tuple among a plurality of presence tuples of presence information maintained by a presence service (column 4, lines 15-29).

Regarding **claim 33**, Hanson discloses wherein the means for of immediately sending is carried out by a service sending the received voice message to an inbox having an inbox address associated with the presence tuple (column 4, lines 15-29).

6. **Claims 37 and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Van Den Berg (US 5,459,871).

Regarding **claim 37**, Baker discloses an automated short message attendant (column 1, lines 7-11), (which reads on claimed “a messaging system comprising at least one terminal (13 on FIG. 1) and a server (27 on FIG. 1)”), wherein the terminal comprises:

means for transmitting presence information to the server and means for receiving presence information from the server (column 4, lines 13-33) [The system tracks the status of the subscriber’s mobile unit for his presence on the network]; and

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in that the system includes an SVM service (15 on FIG. 1), responsive to an instant voice message from a sending principal addressed to an SVM inbox (23 on FIG. 1), for checking the status marker of the SVM inbox and for delivering the instant voice message if the status marker indicates availability for receipt thereof (column 3, lines 7-24) [The service node sends the spoken message of the calling party as a short message to the subscriber when the mobile unit is available].

Baker fails to disclose means for maintaining presence information characterized in that the presence information includes presence tuples.

However, Van Den Berg teaches the server comprises means for maintaining presence information characterized in that the presence information includes presence tuples, each tuple comprising a status marker and a communication address identifying at least one of a short voice message service and an SVM inbox address (column 8, lines 35-55).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use the server that looks up the process tuple to determine that the owner at the right status of Van Den Berg in determining the availability of the subscriber of Baker.

The modification of the invention would offer the capability of tracking system to determine the status of the subscriber's mobile unit such as the automated short message would transmit the spoken message to the wireless unit.

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Regarding **claim 40**, Baker discloses an automated short message attendant (column 1, lines 7-11), (which reads on claimed "a data structure embodied in a computer-readable medium for storage in a physical device"), characterized in that:

a communication address (column 3, line 41 "the calling party enters digits") indicative of at least one of an SVM service (27 on FIG. 1) and an SVM inbox address (column 3, lines 38-46) [The calling party enters the digits and the numbers match the subscriber's name to forward the short message at the short message service center].

Baker fails to disclose storing SVM presence tuples.

However, Van Den Berg teaches the data structure is a short voice message presence information database for storing SVM presence tuples, each tuple having a status marker indicative of availability for receipt of short voice messages (column 8, lines 35-55).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use the server that looks up the process tuple to determine that the owner at the right status of Van Den Berg in determining the availability of the subscriber of Baker.

The modification of the invention would offer the capability of tracking system to determine the status of the subscriber's mobile unit such as the automated short message would transmit the spoken message to the wireless unit.

***Response to Arguments***

7. Applicant's arguments with respect to **claims 1-40** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

  
g.g.  
August 1, 2003

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
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